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ZNR UUUUU ZZH
P 241630Z MAY 07
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 2607
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RUEHGB/AMEMBASSY BAGHDAD PRIORITY 0170
RUEHLA/AMCONSUL BARCELONA PRIORITY 2740
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RHMFISS/HQ USEUCOM VAIHINGEN GE PRIORITY
RHMFIUU/HQ USCENCOM MACDILL AFB FL PRIORITY
RUEKJCS/JOINT STAFF WASHDC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY
RUCNFB/FBI WASHDC PRIORITY

UNCLAS MADRID 001000

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SENSITIVE
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EUR/WE FOR ALLEGRONE, CLEMENTS AND CERVETTI
L/LEI FOR PROPP, KULISH, AND JOHNSON

E.O. 12958: N/A

TAGS: [PREL](#) [PGOV](#) [MARR](#) [SP](#)

SUBJECT: SPAIN/COUSO CASE: JUDGE REJECTS CHIEF PROSECUTOR'S
APPEAL; CASE MOVES ON TO APPEALS TRIBUNAL

REF: A. MADRID 910

[B](#). MADRID 899

[C](#). MADRID 800 AND OTHERS

[1](#). (SBU) On May 24 Spanish investigative magistrate Judge Santiago Pedraz rejected the appeal of National Court Chief Prosecutor Javier Zaragoza to drop the charges against three U.S. servicemen accused of killing Spanish television cameraman Jose Couso during a firefight in Baghdad in April [2003](#). Despite the rejection by Judge Pedraz, this case will proceed to the National Court appeals tribunal, which will rule on the merits of the arguments put forth by Pedraz and by the National Court prosecutors. As we reported in REFTEL A, Zaragoza contacted us on May 14 to report that he had appealed the Pedraz decision to file formal charges against the three servicemen, saying that his technical and legal review of the facts led him to conclude that the killing of Couso was not intentional, and therefore the soldiers could not be charged with war crimes or murder. In today's ruling Judge Pedraz claimed to be surprised by Zaragoza's appeal, as the National Prosecutors Office did not oppose his initial ruling to reactivate arrest warrants for the servicemen and therefore tacitly agreed with the case.

[2](#). (SBU) Comment. Today's ruling by Pedraz was not a surprise as judges do not normally change their original ruling after an appeal based on the technical or legal review of the National Court Prosecutors Office. This case, as we expected, will now be forwarded to the Criminal Division of the National Court. Post will continue to report on this case as it develops.

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